

RESOLUTION 06-2008

AN ORDER ABANDONING A COUNTY ROAD

A petition was filed with the Board of County Commissioners of Jefferson County, Montana (hereinafter, the "Board"), by Rick Abraham; Theresa Abraham; Gayle Allen; Scott Allen; Paula Anders; Nicole Anderson; Joe Angell; Meg Angell; Jeff Applin; Elaine Applin; Ashgrove Cement by Richard Johnson; Jessica Bail; Bruce Bannon; Mary Ann Bannon; Ted Bigart; Susan Bigart; Cathy Brimhall; Dan Brimhall; Gerald Cope; Raymond Cope; Cheryl Cope; Rory Copeland; Greg Duncan; Ann Felstet; Tom Felstet; Rickerd Felstet; Margaret A. Felstet; Thomas Felstet; Ann Felstet; Cheryl Fraser; Larry Goll; Barbara Goll; Gayle Grimsrud; Vernon Grimsrud; Dorthy Hill by Jim Hill w/ POA; Henry Hudson; Karen Hudson; Carolyn Jensen; Neils Jensen; Russell Katherman; Jennifer Katherman; Kay Bills Kazimi; Zia Kazimi; John Kinnick; Douglass Krebs; Vicki Krebs; Celeste Lay; Dennis Lay; Ryan Lay; Isaac Lay; MaryAnn Lay; Olivia Lay; Kristine Maynard; Thomas S McCullough; David Meador; Sherry Meador; Mac Menard; Kristin Minard; Kelly Patzer; David J. Peck (Trustee) Sharp MPP Plan/PSP Plan; John Pfeifer; Sheila Pfeifer; John Rassman; Roberta Rassman; Janet Schossow; Mike Schossow; Pete Stiles; Robert Stimpson; Elizabeth Waal; Beatrice Warren; Bob Warren; Edward Warren; and Gil Warren. This petition was initially filed with the Clerk and Recorder and certified on January 11, 2008 as a Petition For Abandonment of County Road within Jefferson County, Clarks Gulch/Clarks Creek Road. The description of the subject County road is set forth as follows:

It is a road that generally trends through Sections 15, 16, and 17, Township 9 North, Range 3 West running from Montana City to a point in Section 17, Jefferson County, Montana.

Said road is further described by the attached map with the said road depicted in blue and the abandoned portion extends from its intersection with the present County Road (Jackson Creek Road) in Section 15, 9 North, 3 West, near the junction with Jackson Creek Road and Clark Creek Road, on or near the boundary of the NW1/4 of the SW1/4 of Section 15, Marked with an X, extending generally southwest/northeast through Section 16, 9N, 3W, to the section line between 16 and 17, where it trends generally northwest/southeast across section 17, 9N, 3W to a point located near the southeast corner of the NE1/4NE1/4NW1/4 Section 17, Township 9 North,

Range 3 West, also marked with an "X". Said road petitioned for abandonment does not include abandoning any right of way of either Jackson Creek Road nor Hill Brothers Roads, nor Picayune Road, Jefferson County Roads that are not being abandoned.

Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board made a preliminary review of the subject Petition on January 15, 2008. The Petition was certified by the Clerk and Recorder and the Board found that the petition was submitted by a majority of the landowners affected by the road petitioned to be closed within Jefferson County and found that said petition described the particular portions of the road thereof to be abandoned, the general route thereof, and the lands and owners affected by the proposed abandonment.

The Board further determined that the consent of the owners of the affected lands was endorsed upon the Petition by their execution of the same and that the Petition set forth the necessity or an advantage of the petitioned action. That advantages listed by the Petitioners included removing the road from the Jefferson County record, removing the road from the County roles for the purposes of having to conduct maintenance and construction, the road has not been in use for an extended period of time, is not visible any place on the ground, and the road is not necessary, in that, there is an improved gravel road that accesses the residents and properties at the head of Jackson Creek in present time via Jackson Creek Road and Hill Brother's Road..

Therefore, the Board ordered that the feasibility, desirability, and cost of granting the prayer of the Petition, and the merits or demerits of the proposed abandonment be investigated. In this regard, the Board appointed Commissioner Ken Weber as acting Road Supervisor and County Commissioner and Melissa Morris, as the GIS technician for the County to conduct the investigation. On February 15, 2008, Commissioner Weber and Melissa Morris reported that they investigated the merits of the petition and recommended that the petition be granted.

The Board considered the Petition and the findings of Commissioner Weber's and Melissa Morris's investigation. Commissioner Weber moved to approve the closure of said road, hereinafter described:

It is a road that generally trends through Sections 15, 16, and 17, Township 9 North, Range 3 West running from Montana City to a point in Section 17, Jefferson County, Montana.

Said Road is further described by the attached map with the said road depicted in blue and the abandoned portion extends from its intersection with the present County Road (Jackson Creek Road) in Section 15, 9 North, 3 West, near the junction with Jackson Creek Road and Clark Creek Road, on or near the boundary of the NW1/4 of the SW1/4 of Section 15, Marked with an X, extending generally southwest/northeast through Section 16, 9N, 3W, to the section line between 16 and 17, where it trends generally northwest/southeast across section 17, 9N, 3W to a point located near the southeast corner of the NE1/4NE1/4NW1/4 Section 17, Township 9 North, Range 3 West, also marked with an "X". Said road petitioned for abandonment does not include abandoning any right of way of either Jackson Creek Road nor Hill Brothers Roads, nor Picayune Road, Jefferson County Roads that are not being abandoned.

The Board found that the granting of the relief sought in the Petition was in the best interest of the County, was both feasible and desirable for the use and benefit of the public, would not cause any increase in costs to the public, and could be done without detriment to the public interest. Further, the Commission found that there is alternative access to BLM property via Jefferson County road, Holmes Gulch and from Tucker Gulch a county road originating in Lewis and Clark County. Taking those two roads provides access to the Big Indian Mine Road a Jefferson County Road that accesses Joe Schmaus property and BLM property. Holmes Gulch and Tucker Gulch also provide access to the remainder of Clark Creek/Gulch roads not abandoned which also provide access to Schmaus property and BLM property. Further, per Fifth Judicial District Court Stipulated Order dated June 1, 2004 in DV-02-10027, there would also be access from Clark Creek Road from the west across Bompert's land into BLM property via the created easement in settlement of that court case.

Upon such basis, the Board determined that the Petition should be granted and that an appropriate Order should be entered.

Therefore **IT IS HEREBY ORDERED** as follows:

1. That the Petition of and by Rick Abraham; Theresa Abraham; Gayle Allen; Scott Allen; Paula Anders; Nicole Anderson; Joe Angell; Meg Angell; Jeff Applin; Elaine Applin; Ashgrove Cement by Richard Johnson; Jessica Bail; Bruce Bannon; Mary Ann Bannon; Ted Bigart; Susan Bigart; Cathy Brimhall; Dan Brimhall; Gerald Cope; Raymond Cope; Cheryl Cope; Rory Copeland; Greg Duncan; Ann Felstet; Tom Felstet; Rickerd Felstet; Margaret A. Felstet; Thomas Felstet; Ann Felstet; Cheryl Fraser; Larry Goll; Barbara Goll; Gayle Grimsrud;

ABANDONING COUNTY ROAD clarkscreek.wpd

Vernon Grimsrud; Dorthy Hill by Jim Hill w/ POA; Henry Hudson; Karen Hudson; Carolyn Jensen; Neils Jensen; Russell Katherman; Jennifer Katherman; Kay Bills Kazimi; Zia Kazimi; John Kinnick; Douglass Krebs; Vicki Krebs; Celeste Lay; Dennis Lay; Ryan Lay; Isaac Lay; MaryAnn Lay; Olivia Lay; Kristine Maynard; Thomas S McCullough; David Meador; Sherry Meador; Mac Menard; Kristin Minard; Kelly Patzer; David J. Peck (Trustee) Sharp MPP Plan/PSP Plan; John Pfeifer; Sheila Pfeifer; John Rassman; Roberta Rassman; Janet Schossow; Mike Schossow; Pete Stiles; Robert Stimpson; Elizabeth Waal; Beatrice Warren; Bob Warren; Edward Warren; and Gil Warren is hereby granted.

2. That the portion of the said Jefferson County road which is abandoned by this Order is more particularly described as:

It is a road that generally trends through Sections 15, 16, and 17, Township 9 North, Range 3 West running from Montana City to a point in Section 17, Jefferson County, Montana.

Said Road is further described by the attached map with the said road depicted in blue and the abandoned portion extends from its intersection with the present County Road (Jackson Creek Road) in Section 15, 9 North, 3 West, near the junction with Jackson Creek Road and Clark Creek Road, on or near the boundary of the NW1/4 of the SW1/4 of Section 15, Marked with an X, extending generally southwest/northeast through Section 16, 9N, 3W, to the section line between 16 and 17, where it trends generally northwest/southeast across section 17, 9N, 3W to a point located near the southeast corner of the NE1/4NE1/4NW1/4 Section 17, Township 9 North, Range 3 West, also marked with an "X". Said road petitioned for abandonment does not include abandoning any right of way of either Jackson Creek Road nor Hill Brothers Roads, nor Picayune Road, Jefferson County Roads that are not being abandoned.

DATED this 19th day of February, 2008.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

KEN WEBER, CHAIR

CHUCK NOTBOHM, COMMISSIONER

TOMAS E. LYTHGOE, COMMISSIONER